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State of Tennessee



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April 10, 1980

Mr. Arch P. Pettit
Jack Stephens Company
114 East Capitol
Little Rock, Arkansas 72201

Re: State of Tennessee v. John P. Saad & Sons, Inc., et al.

Dear Mr. Pettit:

I am writing in reference to the escrow or bond required by paragraph 4 of the Agreed Order entered in the above case and by paragraph 2 of the appended Agreement. This requirement should be met in the following manner: You should obtain a certificate of deposit for the amount of fifty thousand dollars (\$50,000) from a Nashville financial institution, payable jointly to the Treasurer, State of Tennessee, for the account of the Department of Public Health, and to yourself. The original of this certificate of deposit should be delivered to the Department of Public Health and will be placed in the custody of the Treasurer of the State of Tennessee until such time as the Commissioner of Public Health certifies that the obligations secured by the funds under the Agreement and the Agreed Order have been fulfilled. The maturity term of the certificate of deposit should not exceed six months. The State agrees to authorize the payment of any interest which accrues directly to you.

We look forward to receiving the certificate of deposit within ten days.

Sincerely yours,

Ms. Lee Breckenridge
Assistant Attorney General

LPB:ghh

cc: Susan McGannon, Esquire
Gary Blackburn, Esquire

19-533 Legal
WAT file B Sullivan

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IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

5/7

STATE OF TENNESSEE,
Plaintiff,

v.

No. 79-490-II

JOHN P. SPAD & SONS, INC.,
et al.,

Defendants.

ORDER ON PETITION FOR CONTEMPT

The plaintiff's Petition for Contempt came for hearing on March 28 and April 3, 1980. The defendants made motions to dismiss based on lack of proper service, lack of jurisdiction, and failure to join an indispensable party, Arch E. Pettit. The defendants further moved for dismissal at the close of the plaintiff's proof.

Having considered the testimony of witnesses, argument of counsel, and the entire record in this cause, the Court makes the following findings: The Court is of the opinion that the defendants' motions are not well taken. The Court is further of the opinion that the plaintiff's petition should be overruled to the extent that it alleges a discharge by the defendants. The Court finds, however, that the defendants have violated the Agreed Order entered previously in this cause in the following respects: The defendants have processed waste oil without obtaining a State water quality permit or a written statement that no such permit is required from the Department of Public Health, in violation of paragraph 2(b) of the Agreed Order. Furthermore, the defendants have failed to mix non-chlorinated solvents with the liquid materials in barrels and tanks on the Trousdale site and to deliver all liquid materials to M & M Chemical Company within thirty (30) days of January 1, 1980, as required by paragraph 3 of the Agreed

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Order, and the defendants have failed to make a good faith effort to do so. The Court consequently finds that the defendants are in contempt of the Agreed Order entered in this cause.

It is therefore ORDERED:

1. That the defendants' motions to dismiss are overruled; and
2. That the defendants are enjoined from bringing on the Trousdale property, processing, or discharging, any liquid waste material, without written authorization from the Tennessee Department of Public Health, until all materials held in the barrels and tanks have been disposed of in a manner and location approved by the Department of Public Health, and a state permit or written statement that no permit is required is obtained from the Department of Public Health. The term "processing" as used above shall include heating materials for the purpose of separation. The defendants shall maintain full documentation on the amount and destination of all materials disposed of.

Entered this _____ day of _____, 1980.

CHANCELLOR

Approved for Entry:

William M. Barrick
William M. Barrick
Assistant Attorney General

Lee Brackenridge
Lee Brackenridge
Assistant Attorney General

Gary Blackburn
Gary Blackburn
Attorney for Defendants

10 6 0023

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE

Plaintiff

-vs-

NO: 79-430-II

JOHN P. SAAD, INC., JOHN P.
SAAD, JR., ELLIS J. SAAD
and RICHARD S. SAAD

Defendants

AGREED ORDER

It appearing to the Court, from the signatures below,
that:

1. Arch Pettit has acquired a majority interest in John P. Saad & Sons, Inc.; and
2. Arch Pettit, John P. Saad & Sons, Inc., John P. Saad, Jr., Richard S. Saad, Ellis J. Saad, and the State of Tennessee have agreed to carry out the provisions of the Agreement attached hereto as Exhibit "A", and incorporated herein by reference; and
3. Based upon the Agreement, the plaintiff has agreed to the entry of this Agreed Order;

It appearing that this Order is proper, and that the Agreement, if properly performed, is appropriate, it is, therefore, ORDERED, ADJUDGED and DECREED by the Court that:

- 1) The Temporary Injunction entered on June 16, 1979 is hereby dissolved;
- 2) The defendants shall, prior to using the Trousdale facility, for the processing of waste oil, complete the following:

(a) Complete the diking system on the Trousdale site by providing an impermeable liner on the floor of the diked area sufficient to contain spills of a volume as set forth in the defendants' SPCC Plan;

(b) Obtain either a NPDES water quality permit from the Tennessee Department of Public Health, or a written statement that no such permit is required for the operations and activities contemplated at the Trousdale site.

3) The defendants shall, on or before the 1st day of January, 1980, begin mixing non-chlorinated solvents with the liquid materials now held in barrels and tanks on the Trousdale site, in accordance with instructions from M & M Chemical Company and the State of Alabama; begin to make shipments to M & M Chemical Company as soon as one truckload has been mixed; complete mixing and delivery of all liquid materials to M & M Chemical Company within thirty (30) days of the date of initiating mixing; and place the residue from the mixing process in barrels and hold it for sampling and disposal as required by the Department of Public Health;

4) The defendants shall perform all the requirements of the Agreement. In so doing, however, the defendants are prohibited from removing or disposing of any materials from either the Trousdale site or the Smyrna Airport site until such action receives the written approval of the plaintiff.


5) This Agreed Order shall be the Final Order in this cause, with costs of this action to be assessed against the defendants, for which let execution issue.


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ENTERED by agreement, this _____ day of _____,
1980.

CHANCELLOR

APPROVED FOR ENTRY:


WILLIAM M. BARRICK
Assistant Attorney General


LEE BRECKENRIDGE
Assistant Attorney General
State of Tennessee

Attorneys for Plaintiff

JUDE LENAHAH
Attorney at Law

GARY BLACKBURN
Attorney at Law

Attorneys for Defendants,
John P. Saad & Sons, Inc.,
John P. Saad, Jr., Ellis J.
Saad and Richard S. Saad

A G R E E M E N T

This Agreement between the State of Tennessee, hereinafter referred to as "State", and John P. Saad & Sons, Inc., John P. Saad, Jr., Richard S. Saad and Ellis J. Saad, hereinafter referred to collectively as the Saads, and Arch P. Pettit, is made on this _____ day of _____, 1980.

WHEREAS, the State has instituted an Action No. 79-490-II in the Chancery Court of Davidson County, Tennessee against the Saads as defendants; and

WHEREAS, Arch P. Pettit has acquired a majority interest in John P. Saad & Sons, Inc.; and

WHEREAS, all parties to this agreement desire that said Action No. 79-490-II be settled, in a manner consistent with the protection of the public health;

NOW, THEREFORE, the parties herein AGREE as follows:

1. The State agrees to the entry of the Agreed Order attached hereto as the Final Order resolving all claims in this matter;

2. Arch P. Pattit agrees to guarantee the timely completion of all of the responsibilities of the Saads as set forth in this Agreement, and in the event of the Saads' failure or inability to perform, will undertake and fully perform said responsibilities.

Within 10 days of the date of this Agreement, Arch P. Pettit agrees to obtain a performance bond in the principal amount of Fifty Thousand Dollars (\$50,000) from a corporate surety, approved by the State. Said performance bond shall operate to bind said surety to the State for the full completion of the requirements of Paragraphs 3 and 5 of this Agreement. As an alternative to the foregoing performance bond requirements, Arch P. Pettit may, within 10 days, place the sum of Fifty Thousand Dollars (\$50,000) in an escrow account to be held by an agent approved by the parties pending full and satisfactory completion of the requirements of Paragraphs 3 and 5 of this Agreement. In the event that the Saads and Arch P. Pettit fail to perform said obligations, these funds shall be applied toward the fulfillment of such obligations.

Arch P. Pettit further agrees to place the sum of Eight Thousand Dollars (\$8,000) in an escrow account to be held by an agent selected by the parties for disbursement in accordance with Paragraph 6 of this Agreement. Upon completion of the responsibilities of both parties as described in Paragraph 6 of this Agreement, all remaining funds, if any, shall be refunded.

3. The Saads agree to carry out the following measures at the Smyrna Airport in Rutherford County, Tennessee: In accordance with plans and a time schedule approved in advance by the State, the Saads will remove the materials which have leaked into the diked area surrounding the tank; repair the tank to prevent further leaking of materials; provide treatment of materials contained in the tank; take samples of the

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materials in the tank following treatment, and submit the analyses of said samples to the State; dispose of the materials contained therein and the materials from the diked area in a location, time and manner approved by the State; and, clean the tank and diked area.

4. As set forth in the Agreed Order, the Saads agree to complete the following, prior to using the Trousdale Drive facility for the processing of waste oil:

(a) Complete the diking system on the Trousdale site by providing an impermeable liner on the floor of the diked area sufficient to contain spills of a volume as set forth in the defendants' SPCC Plan;

(b) Obtain either a NPDES water quality permit from the Tennessee Department of Public Health, or a written statement that no such permit is required for the operations and activities contemplated at the Trousdale site.

5. The Saads agree that on or before the 1st day of January, 1980, they will begin mixing non-chlorinated solvents with the liquid materials now held in barrels and tanks on the Trousdale site, in accordance with instructions from M & M Chemical Company and the State of Alabama; begin to make shipments to M & M Chemical Company as soon as one truckload has been mixed; complete mixing and delivery of all liquid materials to M & M Chemical Company within thirty (30) days of the date of initiating mixing; and place the residue from the mixing process in barrels and hold it for sampling and disposal as required by the Department of Public Health.

6. In the case of each well near the Rutherford County property, as described in the Complaint, and upon a

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determination by the state that said well has been contaminated by chlorinated organics, the Saads agree to pay to each family in a separate residence using such well, Two Hundred Dollars (\$200); provided, however, that the total amount to be paid pursuant to this paragraph shall not exceed Eight Thousand Dollars (\$8,000), and in the event that the number of such families exceeds forty (40), the total amount of Eight Thousand Dollars (\$8,000) shall be apportioned equally among all eligible claimants. Payment shall be made within thirty (30) days after written notification by the State stating that all necessary testing has been completed, and designating which families are eligible. Notification by the State shall be tendered within six months of the date of this Agreement.

The payment to residents of Rutherford County, agreed to herein, is made in consideration of forbearance by the State in pursuit of Civil Action No. 79-490-II. It is the intention of the parties that nothing herein be construed as an admission of liability in tort, or otherwise, in any action, whether presently filed or filed subsequent to the date of this Agreement. Each and every agreement by the Saads and Arch P. Pattit are material and essential to this Agreement.

7. Any modification to this Agreement must be made in writing and signed by authorized representatives of all parties in order to be effective.

/s/
WILLIAM M. BARPICK
Assistant Attorney General

/s/
LET BRECKENRIDGE
Assistant Attorney General

ATTORNEYS FOR THE STATE

10 6 0030

JUDE LENAHAN
Attorney at Law

GARY BLACKBURN
Attorney at Law

ATTORNEYS FOR JOHN P. SAAD
& SONS, INC.; JOHN P. SAAD,
JR.; ELLIS J. SAAD; and
RICHARD S. SAAD

ARCH P. PETTIT